

## STATE OF INDIANA

**ERIC J. HOLCOMB, Governor** 

# PUBLIC ACCESS COUNSELOR LUKE H. BRITT

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### OPINION OF THE PUBLIC ACCESS COUNSELOR

THEODORE MILLER,	)	
Complainant	) )	
<b>v.</b>	)	17-FC-29
CITY OF EVANSVILLE ENGINEERING DEPT.	)	
Respondent	)	

### ADVISORY OPINION March 23, 2017

This advisory opinion is in response to the formal complaint alleging City of Evansville Engineering Department ("City") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-1.5-1 et. seq. The City has responded via Mr. Dirck H. Stahl, Esq. The response is enclosed for review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on February 8, 2017.

#### **BACKGROUND**

The formal complaint dated February 8, 2017 alleges the City violated the APRA by failing to give an initial response upon receipt of a records request.

The Complainant filed a request for documents on January 27, 2017, concerning the inspection results for the completion of a project in which AT&T laid fiber optic cable. The Complainant claims no acknowledgement response was sent.

The Respondents concede they did not send the initial response letter to the complainant as he states in his complaint. Additionally, the employees of this particular department were unfamiliar with the nature and requirements under the APRA. They also note that, had the request been understood, the Complainant would have been notified no such records exist which are responsive to his request.



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#### **ANALYSIS**

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." *See Indiana Code § 5-14-3-1*. Evansville City Engineering Department is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. Accordingly, any person has the right to inspect and copy the City's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

Based on the City's concession, it appears as if the City is in non-compliance with the law for not acknowledging the Complainant's request. I trust the City will update its personnel on the requirements of the APRA. Furthermore, the City should be advised this Office has a training program as a resource. If it so chooses, the PAC can conduct an educational seminar bringing new and existing employees up to speed on the obligations of the APRA and Open Door Law.

#### **CONCLUSION**

Based on the foregoing, it is the Opinion of the Public Access Counselor the Evansville City Engineering Department has acted contrary to the APRA for failing to acknowledge an Access to Public Records request.

Luke H. Britt

**Public Access Counselor** 

Cc: Mr. Dirck Stahl, Esq.